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6 UNITED STATES DISTRICT COURT

7 DISTRICT OF NEVADA

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9 UNITED STATES OF AMERICA,

Case No. 3:17-cr-00114-LRH-VPC

10 Plaintiff,

ORDER

11 v.

12 DEVENDRA I. PATEL M.D., a.k.a.,  
13 DEVENDRAKUMAR I. PATEL M.D.,

14 Defendant.

15 The government moves to modify the conditions of release imposed by Magistrate Judge  
16 Cobb. ECF No. 17. The defendant, Dr. Devendra I. Patel, opposes the motion. ECF No. 18. After  
17 reviewing the parties' briefs, the United States Pretrial Services' ("Pretrial Services") report, and  
18 the hearing transcript of Dr. Patel's initial arraignment, the court denies the motion.

19 **I. BACKGROUND**

20 A grand jury indicted Dr. Patel on thirty-six counts of distributing a controlled substance  
21 and on three counts of health care fraud. ECF No. 2. Dr. Patel made his initial appearance before  
22 Magistrate Judge Cobb on December 13, 2017, at which time Judge Cobb heard arguments  
23 regarding pretrial detention. ECF No. 8. The government moved for the detention of Dr. Patel.  
24 *Id.* But Pretrial Services recommended that Dr. Patel be released on his own recognizance with  
25 conditions. *Id.* Dr. Patel also sought a release on his own recognizance with conditions. *Id.*; *see*  
26 *also* ECF No. 16. After hearing the parties' arguments and discussing the circumstances of this  
27 matter, Judge Cobb ordered that Dr. Patel be released on a personal recognizance bond under  
28 various conditions. ECF No. 8; ECF No. 16. The conditions of Dr. Patel's release include:

(1) Dr. Patel must report to Pretrial Services for supervision and agree to supervision by Pretrial Services; (2) Dr. Patel must surrender any passport to Pretrial Services; (3) Dr. Patel must not obtain a passport or passport card; (4) Dr. Patel must not travel out of the state of Nevada, unless air travel through Utah is approved by Pretrial Services prior to the travel occurring; (5) Dr. Patel must only prescribe nuclear stress tests that are medically necessary, which will be monitored by Pretrial Services; and (6) Dr. Patel must comply with any suspension by the Drug Enforcement Agency (“DEA”) of his license to prescribe medications. ECF No. 13; ECF No. 16. Dr. Patel voluntarily relinquished his DEA license—which allows him to prescribe medications—during the hearing. *Id.*

The government now moves to modify the conditions of release, requesting an order prohibiting Dr. Patel from practicing medicine and administering nuclear stress tests during the lifetime of this case. ECF No. 17. Dr. Patel opposes the motion.

## **II. LEGAL STANDARD**

The Bail Reform Act provides: “if after a hearing ..., the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of [a defendant] as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial.” 18 U.S.C. § 3142(e). If the judicial officer is a magistrate judge or “a person other than a judge of the court having original jurisdiction over the offense[,]” the defendant “may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order.” *Id.* § 3145(b). The district judge reviews the order *de novo*. *United States v. Koenig*, 912 F.2d 1190, 1192 (9th Cir. 1990). In reviewing the order, the district judge must consider the following factors: “(1) the nature and circumstances of the offense charged ...; (2) the weight of the evidence against the person; (3) the history and characteristics of the person...; (4) the nature and seriousness of the danger to any person or the community that would be posed by [the defendant’s] release.” *Id.* § 3142(g).

## **III. DISCUSSION**

At Dr. Patel’s initial appearance, the government argued that Dr. Patel is a flight risk and that he is a danger to others and to the community. ECF No. 16. In its motion to modify the

1 conditions of release, the government does not argue for detention. *Id.* It instead argues that the  
2 conditions of release should be modified to prohibit Dr. Patel from practicing medicine, because  
3 he would pose a danger to the community if he were allowed to practice medicine. *Id.* The court  
4 disagrees.

5 The current conditions of release combined with Dr. Patel's forfeiture of his DEA license  
6 provide for the adequate assurance of the safety of other persons and the community. The court  
7 reaches this conclusion principally for two reasons.

8 First, the gravamen of the indictment alleges that Dr. Patel illegally distributed controlled  
9 substances. He did so under the authority of his DEA license, which allowed him to prescribe  
10 medications. By forfeiting his DEA license, Dr. Patel significantly reduced the most significant  
11 risk alleged in the indictment—the illegal distribution of controlled substances to the public—  
12 because he cannot issue prescriptions without his DEA license. The condition that Dr. Patel  
13 comply with any suspension by the DEA of his license minimalizes the risk even further.

14 Second, the conditions reasonably ensure the safety of others and the community from  
15 dangers related to the health-care-fraud charges. The conditions prohibit Dr. Patel from  
16 conducting nuclear stress tests unless the tests are medically necessary. Dr. Patel's compliance  
17 with the condition will be monitored by Pretrial Services. Further, Judge Cobb cautioned  
18 Dr. Patel regarding fraudulent billing and the ordering of unnecessary stress tests. The court is  
19 satisfied that the conditions of release reasonably ensure the safety of other persons and the  
20 community.

21 In addition, and although the government does not argue to the contrary in its instant  
22 motion, the court finds that the conditions of release adequately ensure Dr. Patel's appearance as  
23 required in this matter. Dr. Patel has considerable ties to the community, *e.g.* his family, his  
24 home, his business, his lengthy term of residence in Elko, and the absence of a criminal history.  
25 Any risk of flight is further diminished by the conditions requiring forfeiture of Dr. Patel's  
26 passport and prohibiting Dr. Patel from obtaining another. The conditions of release reasonably  
27 ensure Dr. Patel's appearance as required in this matter.


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1 Based on the foregoing, the court finds that the conditions of release reasonably ensure  
2 the safety of other persons or the community and the appearance of the defendant as required in  
3 this matter. The court is in agreement with the conditions of release ordered by Magistrate Judge  
4 Cobb. The government's motion to modify the conditions of the release is denied accordingly.

5 **IV. CONCLUSION**

6 IT IS THEREFORE ORDERED that the government's motion to modify conditions of  
7 release (ECF No. 17) is **DENIED**.

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9 DATED this 10th day of January, 2018.

  
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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE